

International Law Studies—Volume 39

International Law Situations

or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct.

II. Neutrality Act of November 4, 1939.

(Public Resolution No. 54, 76th Cong., 2d sess.)

Whereas the United States, desiring to preserve its neutrality in wars between foreign states and desiring also to avoid involvement therein, voluntarily imposes upon its nationals by domestic legislation the restrictions set out in this joint resolution; and

Whereas by so doing the United States waives none of its own rights or privileges, or those of any of its nationals, under international law, and expressly reserves all the rights and privileges to which it and its nationals are entitled under the law of nations; and

Whereas the United States hereby expressly reserves the right to repeal, change, or modify this joint resolution or any other domestic legislation in the interests of the peace, security, or welfare of the United States and its people: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

PROCLAMATION OF A STATE OF WAR BETWEEN FOREIGN STATES

SECTION 1. (a) That whenever the President, or the Congress by concurrent resolution shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

(b) Whenever the state of war which shall have caused the President to issue any proclamation under the authority of this section shall have ceased to exist with respect to any state named in such proclamation, he shall revoke such proclamation with respect to such state.

COMMERCE WITH STATES ENGAGED IN ARMED CONFLICT

SEC. 2. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful for any American vessel to carry any passengers or any articles or materials to any state named in such proclamation.

(b) Whoever shall violate any of the provisions of subsection (a) of this section or of any regulations issued thereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or director thereof participating in the violation shall be liable to the penalty herein prescribed.

(c) Whenever the President shall have issued a proclamation under the authority of Section 1 (a) it shall thereafter be unlawful to export or transport, or attempt to export or transport, or cause to be exported or transported, from the United States to any State named in such proclamation, any articles or materials (except copyright articles or materials) until all right, title and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national.

Issuance of a bill of lading under which title to the goods shipped passes to the purchaser unconditionally upon delivery of the goods to carrier, shall constitute a transfer of all right, title, and interest therein within the meaning of this subsection. The shipper of such articles or materials shall be required to file with the collector of the port from or through which they are to be exported a declaration under oath that he has complied with the requirements of this subsection with respect to transfer of right, title, and interest in such articles or materials and that he will comply with such rules and regulations as shall be promulgated from time to time. Any such declaration so filed shall be a conclusive estoppel against any claim of any citizen of the United States having knowledge of such shipment or of such declaration of right, title, or interest in such articles or materials. No loss incurred by any such citizen (1) in connection with the sale or transfer of right, title, and interest

in any such articles or materials or (2) in connection with the exportation or transportation of any such copyrighted articles or materials, shall be made the basis of any claim put forward by the Government of the United States.

(d) Insurance written by underwriters on articles or materials included in shipments which are subject to restrictions under the provisions of this joint resolution, and on vessels carrying such shipments, shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials, or vessels, and no loss incurred thereunder or by the owners of such vessels, shall be made the basis of any claim put forward by the Government of the United States.

(e) Whenever any proclamation issued under the neutrality of Section 1 (a) shall have been revoked with respect to any State the provisions of this section shall thereupon cease to apply with respect to such State, except as to offenses committed prior to such revocation.

(f) The provisions of subsection (a) of this section shall not apply to transportation by American vessels on or over lakes, rivers and inland waters bordering on the United States, or to transportation by aircraft on or over lands bordering on the United States; and the provisions of subsection (c) of this section shall not apply (1) to such transportation of any articles or materials other than articles listed in a proclamation issued under the authority of Section 12 (i) or to any other transportation on or over lands bordering on the United States of any articles or materials other than articles listed in a proclamation issued under the authority of Section 12 (i). And the provisions of subsections (a) and (c) of this section shall not apply to the transportation referred to in this subsection and subsections (g) and (h) of any articles or materials listed in a proclamation issued under the authority of Section 12 (i) if the articles or materials so listed are to be used exclusively by American vessels, aircraft, or other vehicles in connection with their operation and maintenance.

(g) The provisions of subsections (a) and (c) of this section shall not apply to transportation by American vessels (other than aircraft) of mail, passengers, or any articles or

materials (except articles or materials listed in a proclamation issued under the authority of section 12 (i) (1) to any port in the Western Hemisphere north of thirty-five degrees north latitude, (2) to any port in the Western Hemisphere north of thirty-five degrees north latitude and west of sixty-six degrees west longitude, (3) to any port on the Pacific or Indian Oceans, including the China Sea, the Tasman Sea, the Bay of Bengal and the Arabian Sea and any other dependent waters of either of such oceans, seas or bays, or (4) to any port on the Atlantic Ocean or its dependent waters south of thirty degrees north latitude. The exceptions contained in this subsection shall not apply to any such port which is included within a combat area as defined in section 3, which applies to such vessels.

(h) The provisions of subsections (a) and (c) of this section shall not apply to transportation by aircraft of mail, passengers or any articles or materials (except articles or materials listed in a proclamation issued under the authority of section 12 (i) (1) to any port in the Western Hemisphere, or (2) to any port on the Pacific or Indian Oceans, including the China Sea, the Tasman Sea, the Bay of Bengal and the Arabian Sea and any other dependent waters of either such oceans, seas or bays. The exceptions contained in this subsection shall not apply to any such port which is included within a combat area as defined in section 3, which applies to such aircraft.

(i) Every American vessel to which the provisions of subsections (g) and (h) apply and every neutral vessel to which the provisions of subsection (i) apply shall, before departing from a port of the United States, file with the collector of customs of the port of departure, or if there is no such collector at such port, then with the nearest collector of customs, a sworn statement (1) containing a complete list of all the articles and materials carried as cargo by such vessel, and the names and addresses of the consignees of all such articles and materials, and (2) stating the ports at which such articles and materials are to be unloaded and the ports of call of such vessel. All transportation referred to in subsections (f), (g), (h) and (i) of this section shall be subject to such restrictions, rules and regulations as the

President shall prescribe; but no loss incurred in connection with any transportation excepted under the provisions of subsections (g), (h) and (i) of this section shall be made the basis of any claim put forward by the Government of the United States.

(j) Whenever all proclamations issued under the authority of section 1 (a) shall have been revoked, the provisions of subsections (f), (g), (h) and (i) shall expire.

(k) The provisions of this section shall not apply to the current voyage of any American vessel which has cleared for a foreign port and has departed from a port or from the jurisdiction of the United States in advance of (1) the date of enactment of this joint resolution, or (2) any proclamation issued after such date under the authority of Section 1 (a) of this Joint Resolution; but any such vessel shall proceed at its own risk after either of such dates, and no loss incurred in connection with any such vessel or its cargo after either of such dates shall be made the basis of any claim put forward by the Government of the United States.

(1) The provisions of subsection (c) of this section shall not apply to the transportation by a neutral vessel to any port referred to in subsection (g) of this section of any articles or materials [except articles or materials listed in a proclamation referred to in it or issued under the authority of Section 12 (i)] so long as such port is not included within a combat area as defined in Section 3 which applies to American vessels.

COMBAT AREAS

SECTION 3. (a) Whenever the President shall have issued a proclamation under the authority of 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall, by proclamation, define combat areas, and thereafter it shall be unlawful, except under such rules and regulations as may be prescribed, for any citizen of the United States or any American vessel to proceed into or through any such combat area. The combat areas so defined may be made to apply to surface vessels or aircraft, or both.

(b) In case of the violation of any of the provisions of this section by any American vessel, or any owner or officer thereof, such vessel, owner or officer shall be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the owner of such vessel be a corporation, organization or association, each officer or director participating in the violation shall be liable to the penalty hereinabove prescribed. In case of the violation of this section by a citizen traveling as a passenger, such passenger may be fined not more than \$10,000 or imprisoned for not more than two years, or both.

(c) The President may from time to time modify or extend any proclamation issued under the authority of this section, and when the conditions which shall have caused him to issue any such proclamation shall have ceased to exist he shall revoke such proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

AMERICAN RED CROSS

SEC. 4. The provisions of Section 2 (a) shall not prohibit the transportation by vessels under charter or other direction and control of the American Red Cross, proceeding under safe conduct granted by states named in any proclamation issued under the authority of Section 1 (a), of officers and American Red Cross personnel, medical personnel, and medical supplies, food, and clothing, for the relief of human suffering.

TRAVEL ON VESSELS OF BELLIGERENT STATES

SEC. 5. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of any state named in such proclamation, except in accordance with such rules and regulations as may be prescribed.

(b) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease

to apply with respect to such state, except as to offenses committed prior to such revocation.

ARMING OF AMERICAN MERCHANT VESSELS PROHIBITED

SEC. 6. Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful until such proclamation is revoked, for any American vessel, engaged in commerce with any foreign state to be armed, except with small arms and ammunition therefor, which the President may deem necessary and shall publicly designate for the preservation of discipline aboard any such vessel.

FINANCIAL TRANSACTIONS

SEC. 7. (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any State named in such proclamation, or of any political subdivision of any such State, or of any person acting for or on behalf of the government of any such State or political subdivision thereof, issued after the date of such proclamation, or to make any loan or extend any credit (other than necessary credits accruing in connection with the transmission of telegraph, cable, wireless and telephone services) to any such government, political subdivision, or person. The provisions of this subsection shall also apply to the sale by any person within the United States to any person in a State named in any such proclamation of any articles or materials listed in a proclamation issued under the authority of Section 12 (1).

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of such proclamation.

(c) Whoever shall knowingly violate any of the provisions of this section or of any regulations issued thereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or

both. Should the violation be by a corporation, organization, or association, each officer or director thereof participating in the violation shall be liable to the penalty herein prescribed.

(d) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any State the provisions of this section shall thereupon cease to apply with respect to such State, except as to offenses committed prior to such revocation.

SOLICITATION AND COLLECTION OF FUNDS AND CONTRIBUTIONS.

SEC. 8 (a) Whenever the President shall have issued a proclamation under the authority of Section 1 (a), it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any State named in such proclamation or for or on behalf of any agent or instrumentality of any such State.

(b) Nothing in this section shall be construed to prohibit the solicitation or collection of funds and contributions to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds and contributions is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, but all such solicitations and collections of funds and contributions shall be in accordance with and subject to such rules and regulations as may be prescribed.

(c) Whenever any proclamation issued under the authority of Section 1 (a) shall have been revoked with respect to any State the provisions of this section shall thereupon cease to apply with respect to such State, except as to offenses committed prior to such revocation.

AMERICAN REPUBLICS

SEC. 9. This joint resolution except Section 12 shall not apply to any American republic engaged in war against a non-American State or States, provided the American republic is not cooperating with a non-American State or States in such war.

RESTRICTIONS ON USE OF AMERICAN PORTS

SEC. 10. (a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port or from the jurisdiction of the United States, fuel, men, arms, ammunition, implements of war, supplies, dispatches, or information to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 1 (a), but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. C., 1934 edition, title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power, and it shall be his duty, to require the owner, master, or person in command thereof, before departing from a port or from the jurisdiction of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any fuel, supplies, dispatches, information, or any part of the cargo, to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 1 (a).

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously departed from a port or from the jurisdiction of the United States during such war and delivered men, fuel, supplies, dispatches, information, or any part of its cargo to a warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 1 (a), he may prohibit the departure of such vessel during the duration of the war.

(c) Whenever the President shall have issued a proclamation under section 1 (a) he may, while such proclamation is in effect, require the owner, master, or person in command of any vessel, foreign or domestic, before departing from the

United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that no alien seaman who arrived on such vessel shall remain in the United States for a longer period than that permitted under the regulations, as amended from time to time, issued pursuant to section 33 of the Immigration Act of February 5, 1917 (U. S. C., title 8, sec. 168). Notwithstanding the provisions of said section 33, the President may issue such regulations with respect to the landing of such seamen as he deems necessary to insure their departure either on such vessel or another vessel at the expense of such owner, master, or person in command.

SUBMARINES AND ARMED MERCHANT VESSELS

SECTION 11. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign State will serve to maintain peace between the United States and foreign States, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

NATIONAL MUNITIONS CONTROL BOARD

SEC. 12 (a) There is hereby established a National Munitions Control Board (hereinafter referred to as the "board"). The board shall consist of the Secretary of State, who shall be chairman and executive officer of the board; the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy and the Secretary of Commerce.

Except as otherwise provided in this section, or by other law, the administration of this section is vested in the Secretary of State. The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions. The board shall be convened by the chairman and shall hold at least one meeting a year.

(b) Every person who engages in the business of manufacturing, exporting or importing any arms, ammunition or implements of war listed in a proclamation issued under authority of subsection (1) of this section, whether as an exporter, importer, manufacturer or dealer, shall register with the Secretary of State his name, or business name, principal place of business and places of business in the United States, and a list of the arms, ammunition and implements of war which he manufactures, imports or exports.

(c) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, or implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$100. Upon receipt of the required registration fee the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment for each renewal of a fee of \$100.

(d) It shall be unlawful for any person to export, or attempt to export, from the United States to any other State, any arms, ammunition, or implements of war listed in a proclamation issued under the authority of subsection (i) of this section, or to import, or attempt to import, to the United States from any other State, any of the arms, ammunition, or implements of war listed in any such proclamation, without first having submitted to the Secretary of State the name of the purchaser and the terms of sale and having obtained a license therefor.

(e) All persons required to register under this section shall maintain, subject to the inspection of the Secretary of State,

or any person or persons designated by him, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Secretary of State shall prescribe.

(f) Licenses shall be issued by the Secretary of State to persons who have registered as herein provided for, except in cases of export or import licenses where the export of arms, ammunition, or implements of war would be in violation of this joint resolution or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

(g) No purchase of arms, ammunition, or implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the government from any person who shall have failed to register under the provisions of this joint resolution.

(h) The board shall make a report to Congress on January 1 and July 1 of each year, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war, including the name of the purchaser and the terms of sale made under such license. The board shall include in such reports a list of all persons required to register under the provisions of this joint resolution, and full information concerning the licenses issued hereunder, including the name of the purchaser and the terms of sale made under such license.

(i) The President is hereby authorized to proclaim upon recommendation of the board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

REGULATIONS

SEC. 13. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or

authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

UNLAWFUL USE OF THE AMERICAN FLAG

SEC. 14 (a). It will be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign State to use the flag of the United States thereon, to make use of any distinctive signs or markings, indicating that the same is an American vessel.

(b) Any vessel violating the provisions of subsection (a) of this section shall be denied for a period of three months the right to enter the ports or territorial waters of the United States except in case of force majeure.

GENERAL PENALTY PROVISION

SEC. 15. In every case of the violation of any of the provisions of this joint resolution or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

DEFINITIONS

SEC. 16. For the purpose of this joint resolution—(a) the term “United States” when used in a geographical sense, includes the several States and territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

(b) The term “person” includes a partnership, company, association, or corporation, as well as a natural person.

(c) The term “vessel” means every description of water craft and aircraft capable of being used as a means of transportation on, under, or over water.

(d) The term “American vessel” means any vessel documented, and any aircraft registered or licensed, under the laws of the United States.

(e) The term “State” shall include nation, government, and country.

(f) The term “citizen” shall include any individual owing allegiance to the United States, a partnership, company, or

association composed in whole or in part of citizens of the United States, and any corporation organized and existing under the laws of the United States as defined in subsection (a) of this section.

SEPARABILITY OF PROVISIONS

SEC. 17. If any of the provisions of this joint resolution, or the application thereof to any person or circumstance, is held invalid, the remainder of the joint resolution, and the application of such provision to other persons or circumstances, shall not be affected thereby.

APPROPRIATIONS

SEC. 18. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this joint resolution.

REPEALS

SEC. 19. The joint resolution of Aug. 31, 1935, as amended, and the joint resolution of Jan. 8, 1937, are hereby repealed, provided that such repeal shall not affect the validity of certificates of registration or licenses issued pursuant to Section 2 of the joint resolution of Aug. 31, 1935, or Section 5 of the joint resolution of Aug. 31, 1935, as amended, or the validity of proclamation No. 2237 of May 1, 1937 (50 Stat. 1834), defining the term "arms, ammunition and implements of war," which, until it is revoked, shall have full force and effect as if issued pursuant to this joint resolution: *Provided further*, That offenses committed and penalties, forfeitures or liabilities incurred under either of such joint resolutions prior to the date of enactment of this joint resolution may be prosecuted and punished, and suits and proceedings for violations of either of such joint resolutions or of any rule or regulation issued pursuant thereto may be commenced and prosecuted, in the same manner and with the same effect as if such joint resolutions had not been repealed.

SHORT TITLE

SEC. 20. This joint resolution may be cited as the "Neutrality Act of 1939."

III. Proclamation of neutrality (general) by the President, September 5, 1939.

(4 Federal Register, p. 3809.)

WHEREAS a state of war unhappily exists between Germany and France; Poland; and the United Kingdom, India, Australia and New Zealand;

AND WHEREAS the United States is on terms of friendship and amity with the contending powers; and with the persons inhabiting their several dominions;

AND WHEREAS there are nationals of the United States residing within the territories or dominions of each of the said belligerents, and carrying on commerce, trade, or other business or pursuits therein;

AND WHEREAS there are nationals of each of the said belligerents residing within the territory or jurisdiction of the United States, and carrying on commerce, trade, or other business or pursuits therein;

AND WHEREAS the laws and treaties of the United States, without interfering with the free expression of opinion and sympathy, nevertheless impose upon all persons who may be within their territory and jurisdiction the duty of an impartial neutrality during the existence of the contest;

AND WHEREAS it is the duty of a neutral government not to permit or suffer the making of its territory or territorial waters subservient to the purposes of war;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, in order to preserve the neutrality of the United States and of its citizens and of persons within its territory and jurisdiction, and to enforce its laws and treaties, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from any violation of the same, do hereby declare and proclaim that by certain provisions of the act approved on the 4th day of March, A. D.